

APPENDIX G

FINDING OF NO SIGNIFICANT IMPACT

Document Type: EA-Administrative Record
Index Field: FONSI
Project Name: Sunset Bay
Project Number: 2002-66

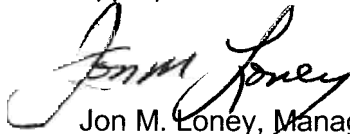
November 12, 2002

Bridgette K. Ellis, NRB 2A-N

SUNSET BAY RESIDENTIAL DEVELOPMENT – PROPOSED ROADWAY,
COMMUNITY DOCK, BOAT LAUNCHING RAMP, FILLS AND DEED MODIFICATION
NORRIS RESERVOIR, UNION COUNTY, TENNESSEE – FINDING OF NO
SIGNIFICANT IMPACT (FONSI)

In accordance with the National Environmental Policy Act (NEPA) and TVA's implementing procedures, Environmental Policy and Planning has prepared the attached Environmental Assessment (EA) and is issuing the attached FONSI. This serves as documentation of TVA's environmental review. As stated in the FONSI, we conclude that the proposed action will not have a significant impact on the quality of the environment.

Please ensure that commitments are included in the deed or Section 26a permit, as appropriate.



Jon M. Loney, Manager
NEPA Administration
Environmental Policy and Planning

SED:HMD:LEB

Attachments (2) – [FONSI, EA of November, 2002]

cc: J. Collins, WT 8A-K (electronic copy of EA and FONSI for web posting)

M. H. Dunn, ET11A-K (entire package)

K. J. Jackson, WT 11A-K (FONSI only)

K. Pilarski, ABL 1A-N (entire package)

J. W. Shipp, Jr., MR 2T-C

EDMS, SP 1D-C (entire package)

Prepared by Stanford E. Davis and Harold M. Draper (EP&P), reviewed by Linda Fowler and Buff Crosby (RS); with concurrence of Khurshid K. Mehta and Rebecca C. Tolene (OGC).

Sunset Bay FONSI.doc

FINDING OF NO SIGNIFICANT IMPACT TENNESSEE VALLEY AUTHORITY

SUNSET BAY RESIDENTIAL DEVELOPMENT

Proposed Roadway, Community Dock, Boat Launching Ramp, Fills and Deed Modification Norris Reservoir Union County, Tennessee

Proposed Action and Need

TN Emmons, LLC (TN Emmons), a subsidiary of Inland Management Corporation, has requested approval of an entrance road, community dock, boat ramp, and deed modification to allow construction on 14 acres of TVA flowage easement land. These actions on the part of TVA would enhance the ongoing development of a 1000 acre waterfront subdivision on Norris Reservoir.

The property being developed lies along the north side of Big Ridge and fronts approximately 7 miles of Lost Creek embayment; the southwest end of the property is located at Clinch River Mile (CRM) 103R. Of the Sunset Bay property planned for development, 840 acres are located above elevation 1044-foot msl. TVA owns flowage easement landrights over 160 acres of land below elevation 1044-foot msl along the Lost Creek embayment shoreline. The average width of this flowage easement land is 230 feet.

The Lost Creek embayment and Sunset Bay shoreline are recognized as “open” for consideration of residential dock permits in accordance with the Shoreline Management Initiative (SMI) Final Environmental Impact Statement (FEIS). According to the SMI classification system, the shoreline is characterized as Residential Mitigation in the Norris Reservoir Land Management Plan. The Sunset Bay EA incorporates practices consistent with the SMI Record of Decision (ROD). The TVA EA is attached and incorporated by reference.

Because of the size of the project, length of the shoreline potentially affected and the potential for impacts to sensitive biological and cultural resources, TVA determined that an environmental assessment (EA) would better document its review of the impacts of this proposal.

Alternatives

The three alternatives assessed in the EA are Alternative 1 - No Action, Alternative 2 - Applicant's Proposal, and Alternative 3 – Applicant's Proposal with Mitigation Resulting from the Section 26a and Land Use Review. Under Alternative 1, TVA would not issue Section 26a permits for the community dock, boat launching ramp, and access road, and TVA would not approve deed modifications affecting about 14 acres to allow the construction of fill, 30 home sites/structures, and associated structures. Under Alternative 2, TVA would approve the applicant's request as originally proposed. This would include approval, under Section 26a, for the community dock and access walkway (i.e., catwalk), boat ramp, and portions of the clubhouse/deck, parking lot, and associated construction fill material placed below elevation 1044-foot msl. Also, TVA

would approve an access road and a deed modification for fill, excavation, and structures below elevation 1044-foot msl affecting about 14 acres of the property. Under Alternative 3, TVA would approve TN Emmons' modified request with additional mitigation measures identified through the TVA review process, i.e., commitments to avoid or minimize impacts to the environment.

Impact Assessment

Implementation of any of the three alternatives would result in minimal impacts on land transportation, socioeconomic conditions, terrestrial ecology (biological resources) and common species of wildlife, air quality, groundwater, community infrastructure and services, cultural resources, floodplains, or prime farmland. Under Alternative 2, mitigation proposed as a part of the developer's plans would reduce impacts to insignificant levels on terrestrial ecological resources, including wetlands and threatened and endangered species, aquatic ecology, and water quality. However, to further reduce effects on these resources and others, additional mitigation measures would be imposed under Alternative 3. These measures would strengthen best management practices and reduce the number of boat slips in the community dock. TVA believes that adoption of Alternative 3 would more effectively reduce impacts on water-based navigation, water quality, aquatic ecology, visual resources, wetland, threatened and endangered species, and reduce noise. Additionally, implementation of Alternative 3 would reduce the perception of unsafe recreational boating and diminished user experience, improve safety of community boat launching ramp users, as well as reduce concerns of possible effects on reservoir operations and navigation hazards from slips breaking away from the community dock as it was previously designed.

Mitigation

The following is a list of mitigation measures that are necessary to avoid significant impacts if the preferred alternative is implemented.

1. Any future facilities or equipment subject to flood damage will be located above or flood-proofed to the 500-year flood elevation of 1035-foot msl.
2. Any future development proposed within the limits of the 100-year floodplain, elevation 1032-foot msl, must receive additional approval from TVA.
3. All future development will be consistent with the requirements of TVA's Flood Control Storage Loss Guideline.
4. Lot numbers 388, 389, 390, 370, 371, 372, 373, 374, 375, 376, and 377 that adjoin the community outlot will be ineligible for individual water-use facilities or private docks. This information will be made available to prospective lot buyers in TN Emmons' Interstate Exemption Statement (as a Vital Information Statement (VIS)) (Appendix E for Phases I and II). As soon as it is available, TN Emmons will provide TVA a copy of the additional Phase III VIS identifying the other lots where water-use facilities will be prohibited. This prohibition will be included in any future deed conveying the property.
5. TN Emmons will rigorously implement BMPs prior to, during, and after establishment of construction, fill, and borrow activities in all phases of the development. In particular, any fill placed below elevation 1044-foot msl will be

stabilized with at least a temporary erosion control mat planted to suitable permanent vegetation. Along the shore to the top of the wave impact zone (below elevation 1023-foot msl) at full pool, fill will be covered with riprap (rock) large enough to prevent washout. Such rock will be underlain with suitable filter fabric or granular filter. Upland property will be indefinitely maintained to prevent erosion.

6. TN Emmons will mitigate the loss of a 0.25-acre wetland through acquisition of a 0.50-acre credit from the Indian Creek Wetland Mitigation Site in Roane County.
7. TN Emmons will remove approximately 141 cubic yards of old road fill material from below elevation 1020-foot msl in order to construct the planned east entrance road.
8. To avoid impacting Indiana bats, potential (dead or live trees greater than 6 inches dbh) bat roost trees may be removed between October 15 and March 31, when Indiana bats are not present. In the event TN Emmons seeks to remove potential bat roost trees between April 1 and October 14, a qualified biologist will be hired to identify and mark trees within the area. A report will be provided to TVA showing the location and number of roost trees. Removal of any such trees will require a biologist to monitor these trees using an ultrasound detector to identify bat echolocation calls. This monitoring shall occur from 30 minutes before dusk to 30 minutes after dark, screening a range of frequencies from 38 to 50 kHz. If no ultrasound calls are detected during one night of monitoring, the tree will be removed the following morning. Sunset Bay Architectural Review Committee (governed by the Homeowners Association) will also require approval of any potential bat roost trees removed by individual lot owners between April 1 and October 14. Reports from such lot owner projects will be submitted annually to TVA subsequent to tree removal.
9. TN Emmons will conduct no activities within the shoreland areas proposed for these facilities until such time as TN Emmons has completed an archaeological survey to identify and evaluate historic properties within the area of potential effect; submitted documentation of the survey to the TVA and the SHPO, and the requirements for phased compliance under Section 106 of the NHPA have been met. This includes the vicinity of the community dock and east entrance road from elevation 1015.6 to 985.0-foot msl which was submerged during initial surveys conducted in April and May, 2002.
10. Sewage treatment facilities will be built and maintained in accordance with any applicable county and state requirements.
11. The community dock will be managed as a private facility and not a commercial marina. Consequently, TN Emmons agrees that there will be no fuel sales, boat/motor repair or sales, materials or provisions sales and other amenities at the community dock which are typically provided by commercial marinas.
12. To insure that the 20.2 acres of "40-foot-wide conservation buffers" are designed, constructed, and maintained to prevent long-term erosion and potential water quality impacts, TN Emmons will: (a) design surface storm water drainage channels using channel shape (e.g., v-shape, parabolic, trapezoidal, etc., included in the Storm Water Pollution Prevention Plan), linings (rock, grass, or permanent fabric), grade-

control structures, or other methods as appropriate to withstand the increased post-development discharges, (b) insure long-term maintenance by repairing erosion that might occur to these channels, (c) connect “buffers” to other vegetated areas such as those retained or created in association with item (commitment) numbers 14 and 15 below, and (d) incorporate language in sales agreements limiting the new landowners’ rights to excavate soil or remove/damage trees in these buffer areas. Landowner conformance with this condition will become a responsibility of the Architectural Review Committee of the Sunset Bay Homeowners Association.

13. At completion of construction in order to treat or remove sediment, nutrient, metals, or other potential pollutants from surface drainage prior to entering the reservoir, TN Emmons will convert temporary sediment traps or basins to permanent storm water treatment/detention structures by cleaning out accumulated sediment and planting the basins to appropriate vegetation, preferably native grasses and forbs. Any additional storm water treatment structures required by state or county requirements will be constructed in accordance with those requirements. Maintenance will become a responsibility of the Sunset Bay homeowners’ organization.
4. TN Emmons will establish greenbelt/shoreline management zones to protect and enhance existing tree cover along the Sunset Bay development, as described in A and B below. In accordance with these requirements, language will be incorporated in the property sales agreements that will require new landowners to coordinate and obtain approval from the Architectural Review Committee of the Sunset Bay Homeowners Association before any trees are damaged or removed in the greenbelt areas.
 - A. The greenbelt includes the area between elevations 1020-foot msl and 1036-foot msl around the two peninsulas (Tract XNR-721, Parcels 2 and 3, within portions between TVA corners 66-11 and 66-16; and 66-1 and 66-2, respectively), in front of the property (totaling 14-acres) affected by the proposed deed modifications. In addition, for each of the 30 lots in the area of deed modification, TN Emmons will plant and maintain at least 12 native deciduous and evergreen trees at a ratio of 3:1. At planting, the deciduous trees will be at least 1.5 inch caliper and evergreens will be at least 6 feet tall. Where lots have existing trees, required trees will be used to supplement greenbelt planting on the other lots nearby. Tree planting will be done during Phase I of the overall development for maximum buffer growth prior to construction.
 - B. The greenbelt includes the areas between elevation 1020-foot msl and 1044-foot msl of Tract XNR-721 along Parcel 5 (between TVA corners 65-14 and 65-15), along Parcel 6, (between TVA corners 65-1 and 65-4), and along Parcel 1, from TVA corner 66-20R north to the end of the wooded shoreline (about Clinch River Mile 102.9). No tree planting would be required on these parcels.
15. TN Emmons will plant and maintain a similar buffer of predominantly evergreen trees to permanently screen views of the community dock parking area from the reservoir area. Plants will be of sufficient size and spacing to fully screen the parking within three years after planting.

16. TN Emmons will establish standards to use only darker tones of muted natural colors (e.g., dark gray-green, brown, black, etc.) for the structures and roofs associated with the community water-use facility.
17. TN Emmons will construct a maximum of 236 covered community dock slips with a winter configurations of 118 slips. These slips will be permanently moored, moved out and back as the reservoir fluctuates, and remain afloat in summer and in winter when the reservoir elevation ranges between 1020-foot and 974-foot msl.
18. Signage must be placed at the community boat ramp to inform users of the existence of the 20 percent grade and to encourage them to take all necessary precautions to ensure safe operation at the ramp.
19. To reduce potential water quality impacts, TN Emmons will manage the community dock facility based on the *Tennessee Valley Clean Marina Guidebook*.

Public and Intergovernmental Review

The proposed Sunset Bay residential development plan was announced through U.S. Army Corps of Engineers/TVA Joint Public Notice 02-38, dated May, 13, 2002. In addition, TVA circulated a draft EA to 19 federal and state agencies and local entities on August 27, 2002. Responses to the two notices were received from the East Tennessee Development District, Tennessee Historical Commission (THC), Tennessee Conservation League (TCL), Tennessee Clean Water Network (TCWN), U.S. Fish and Wildlife Service (FWS) and one private citizen. The final EA was revised in response to these comments.

In its letter dated September 20, FWS indicated it could support Alternative 2 or 3 as long as its recommendations concerning the Indiana bat and gray bat contained in its May 30, 2002 letter to Amy Henry [BHE Environmental] were incorporated into the project plan. Furthermore, in its May 30 response to BHE's habitat assessment, FWS concurred that the proposed actions would not likely adversely affect the Indiana bat or gray bat as long as implementation measures to restrict time of the year or individual tree removal. These mitigation measures are included as commitment(s) in the EA.

Under Section 106 of the National Historic Preservation Act, TVA coordinated its review of the potential impact of the proposed action on historic properties, including review of a Phase I archaeological survey. Nine Indian tribes with possible affiliation with the project area were notified of the proposed action by letter dated July 24, 2002. By letter to the State Historic Preservation Officer (SHPO), dated July 15, 2002, TVA submitted a finding that no historic properties would be affected within the TVA-designated Area of Potential Effect (APE). The SHPO responded, by letter of August 21, 2002 stating: "We affirm our finding, stated in previous correspondence, that we concur with TVA's determination that there are no historic properties which will be affected in the portions of the project previously surveyed. We also repeat our concurrence that archaeological survey work in the inundated areas of the project may be postponed until the winter draw down." Despite this concurrence, the SHPO continued to disagree regarding the extent of the APE identified by TVA for this project. Further, by letter of September 24, 2002, THC suggested that there may be historic properties as yet unknown located within the boundaries of Sunset Bay Residential Development that exist beyond the TVA-

designated APE. While it is indeed possible that cultural resources exist on private lands in the area, these resources would not be affected by the federal actions related to Sunset Bay. As to the non-federal actions on private land, TVA will encourage the developer to undertake the development in a manner that would minimize the impact to historic properties.

TCL stated that this is one of several requests for modifications of flowage easements that they have seen and stated that these types of actions should instead first be addressed through a more comprehensive review. TVA has determined that a more comprehensive review is not necessary because of the small number of these requests that have been sporadically received and the minimal acreage that has been affected over the last few years. Further, each request for modification of flowage easements is subject to an environmental review in accordance with NEPA. In the instant case, the attached EA assesses the impact of the modification of flowage easement over 14 acres.

TCWN indicated that they were opposed to the deed modifications because these would lead to greater water quality and visual impacts. They also requested that alternatives to riprap and culverting be evaluated for the east entrance road. TCWN also provided a number of suggestions to ensure that stormwater is controlled. TVA has included a number of commitments that will lead to more rigorous implementation of erosion and sediment control measures and to reduce visual impacts. Given the small size of the stream crossed by the east entrance road, TVA did not feel that alternatives to riprap and culverting, such as a bridge, would offer environmental advantages (see attached EA, Appendix F for more detailed responses).

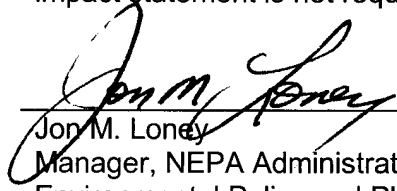
W.G. Minser stated that the request should be denied because it would reduce the natural beauty of TVA shorelines. Minser also mentioned another proposed TVA land action on Fort Loudoun Reservoir. He requested that TVA make a clear policy on sale of its public lands. TVA has generally been able to minimize the impacts of these actions by reviewing individual requests on a case-by-case basis. In the case of the Sunset Bay proposal, the deed modification affects privately owned land, and TVA has added greenbelt and shoreline management zone restrictions to reduce the impacts of the proposal on natural beauty. Additionally, TVA will receive fair market value for deed modification, and as indicated in the EA, only 14 acres of flowage easement land are involved and the development would go ahead even without the TVA action.

The East Tennessee Development District found no conflicts with regional plans or programs.

Conclusion and Findings

After review of the EA, TVA finds that the impacts of adopting Alternative 3 and approving the community dock, boat ramp, and portions of the clubhouse/deck, parking lot, and associated construction fill material placed below elevation 1044-foot msl would be insignificant. Also, TVA would approve an access road and a deed modification for fill, excavation, and structures below elevation 1044-foot msl affecting about 14 acres of the private property. In total, approval of these actions for the Sunset Bay Residential

Development would not have a significant impact on the quality of the environment provided the above commitments are implemented. Accordingly, an environmental impact statement is not required.



Jon M. Loney
Manager, NEPA Administration
Environmental Policy and Planning
Tennessee Valley Authority



Date